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November 16, 1999

BY FACSIMILE

The Honorable Carol M. Browner
Administrator
Environmental Protection Agency
401 M. Street, S.W.
Washington, D.C. 20460

Dear Administrator Browner:

Thank you for the Environmental Protection Agency's (EPA's) September 27, 1999 letter responding to my August 10th letter on EPA's Transportation Partners Program (TPP). I am writing to follow up on some of the issues raised in that exchange. Pursuant to the Constitution and Rules X and XI of the United States House of Representatives, I request that EPA answer the attached questions.

Please provide the information requested in this letter by December 20, 1999 to the Subcommittee majority staff in room B-377 Rayburn House Office Building and the Subcommittee minority staff in room B-350A Rayburn House Office Building. If you have any questions about this request, please contact Subcommittee Staff Director Marlo Lewis at 225-1962.

Thank you in advance for your attention to this request.

Sincerely,



David M. McIntosh

Chairman

Subcommittee on National Economic Growth,
Natural Resources and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable Dennis Kucinich

- Q1. EPA's September 27, 1999 letter states: "Our review of progress reports and other documents relating to the TPP Principal Partners cooperative agreements raised questions regarding whether the recipients' use of EPA funds complied with the aforementioned OMB Circulars and appropriation restrictions. Consequently, we will request that EPA's Office of Inspector General conduct an audit of the cooperative agreements. We will advise you further after the OIG has completed its audit" (p. 2). The letter further states: "We will also ask the EPA OIG to include whether EPA funds were used in violation of restrictions on litigation involving the Federal Government within the scope of its audit. Again, we will advise you further when the OIG audit is complete" (p. 3). Did EPA request an Inspector General (OIG) audit of the cooperative agreements with a view to possible improper use of Federal funds for lobbying or litigation? If so, when was the request made, and when is the OIG report expected?
- Q2. EPA's September 27th letter states: "Data regarding financial assistance that EDF received under other EPA programs will be provided to you shortly" (p. 2). Why have these data not yet been provided to the Subcommittee? When will EPA provide such data?
- Q3. EPA's September 27th letter states: "As mentioned earlier, the TPP has been discontinued. The web site to which you refer, '<http://www.epa.gov/tp>,' no longer contains any information about the former TPP" (p. 12). However, another EPA web site, "<http://www.epa.gov/opperid1/icr/1818ss01.htm>," contains 15 pages on the TPP, and projects a growth in the number of Project Partners from 385 to 585. Is this web site obsolete? If so, does EPA plan to delete the site and its links, or post a notice thereon announcing the program's termination?
- Q4. As of November 15, 1999, the Subcommittee staff was unable to find a web site for the Transportation and Environment Network (TEN), the program EPA has proposed to replace the TPP. When will the TEN web site be on line?
- Q5. EPA's September 27th letter states: "EPA has communicated the program's discontinuation orally to each of the Principal Partners and will shortly provide the same information to the Principal Partners in writing" (p. 13). Please provide the Subcommittee copies of all written communications to the Principal Partners (and any other non-Federal parties, including Members or Committees of Congress) announcing the program's termination.
- Q6. EPA's September 27th letter states that "reducing vehicle miles traveled (VMT) is an official goal of United States Government policy as it is stated in sections of the Clean Air Act (CAA), the President's 1993 Climate Change Action Plan (CCAP), and in the Congestion Mitigation Air Quality Improvement Program (CMAQ) included in both the Intermodal Surface Transportation Efficiency Act (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21), U.S.C. 23, Section 149." I must respectfully disagree. Only in the CCAP -- an Administration policy plan rather than a statute -- is

reducing VMT affirmed as a goal in its own right. In the statutes cited, reducing VMT is presented as one among several means that States may employ to improve air quality in non-attainment areas, not as the objective of the policy or program, and not for the country as a whole. In contrast, the TPP assumes that reducing VMT -- i.e., limiting automobile use -- is inherently desirable, a goal to be pursued nationwide, even in attainment areas. The statutory provisions EPA cites do not appear to support EPA's thesis. Please provide a written assessment my observations below with respect to each of the provisions EPA cited:

- a. CAA Section 182(c)(5) applies to areas in "serious" non-attainment. Reducing "aggregate vehicle mileage" is one means a State may consider to bring such an area into attainment. However, the goal is to reduce "emission levels," not VMT per se, and the State may employ other measures to achieve that end. Thus, Section 182(c)(5) does not establish VMT reduction as a goal of national policy.
- b. CAA Section 182(d)(1) applies to areas in "severe" non-attainment. A State with a severe non-attainment area must adopt transportation control measures "to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area." Note that even here, the State is not required to reduce VMT per se but to "offset" growth in emissions from growth in VMT. Thus, Section 182(d)(1) does not establish VMT reduction as a goal of national policy.
- c. CAA Section 187(a)(2)(A) applies to areas in "moderate" non-attainment. A State with a moderate non-attainment area must "forecast" VMT in that area for as many years as it is expected to be in non-attainment. The provision does not say or even imply that the State should consider implementing VMT reductions to improve air quality. Rather, the State is directed to "forecast," i.e. estimate, VMT. Thus, Section 187(a)(2)(A) does not establish VMT reduction as a goal of national policy.
- d. CAA Section 187(b)(2) applies to areas in "serious" non-attainment with respect to carbon monoxide. It does not mandate VMT reductions as a means of reducing emissions: "[I]f the State fails to include any such measure [required in section 182(d)(1)], the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary air quality standard for carbon monoxide." Thus, Section 187(b)(2) does not establish VMT reduction as a goal of national policy.
- e. U.S.C. 23, Section 149 permits States to implement a transportation project or program in a non-attainment area only if the Secretary of Transportation and the EPA Administrator determine that the project or program "is likely to contribute

to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.” Again, this section applies to non-attainment areas, not the nation as a whole, and allows States to choose means other than VMT reduction to improve air quality. Thus, U.S.C. 23, Section 149 does not establish VMT reduction as a goal of national policy.

- Q7. Citing CAA Sections 103(a)(1) and 103(b), EPA contends that it may award TPP grants for research on any type of air pollution, including CO₂ emissions from automobiles. While it is true that Section 103(a)(1) “does not limit the scope of grant activities to particular types of air pollution,” it does limit the scope of grant activities to “research, investigations, experiments, demonstrations, surveys, and studies.” According to my sources, EPA funded the “Principal Partners,” the Principal Partners built up a network of “Project Partners,” and Project Partners lobbied at the State and local levels to block highway projects. Such anti-road, anti-car advocacy is not research, investigations, or studies. In hindsight, it seems clear that the TPP’s two-tier organization enabled EPA to fuel anti-highway advocacy without funding or directly sponsoring the local organizations engaged in such advocacy. How will the new Transportation and Environment Network (TEN) be organized? Will the former Project Partners have a formal or informal role in the new program? Will the TEN program have an affiliated network of local organizations?
- Q8. In my August 10th letter, citing Department of Energy (DOE) estimates that automobiles use on average 3,671 Btu per passenger-mile, compared to 4,507 Btu per passenger mile for transit buses and 3,444 Btu per passenger mile for transit rail (U.S. Department of Energy, *Transportation Energy Data Book*, Edition 18, September 1998, Table 2.12), I questioned EPA’s assumption that a modal shift from automobiles to transit will lower energy use and reduce greenhouse gas emissions. In its September 27th letter, EPA, citing the same source (Table 2.12, Edition 18 of the *Transportation Energy Data Book*), claims that “a shift of half of one percent of automobile passenger miles” would reduce energy use by “an estimated 43 trillion Btu.” There are two problems with this response. First, 43 trillion Btu is half of one percent of all automobile energy use ($0.005 \times 8,620.8 \text{ Btu} = 43.104 \text{ Btu}$). Isn’t this alleged energy “savings” trivial? Second, reducing automobile passenger miles would increase bus transit and rail transit passenger miles, which in turn could increase energy use by those modes. What justifies EPA’s assumption that reducing automobile passenger miles would translate into a pure energy conservation gain?
- Q9. In my August 10th letter, I asked whether EPA subscribes to the view that expanding highway capacity to relieve congestion is an exercise in futility. EPA replied that “In general, there is a consensus among transportation economists that reducing congestion by adding more capacity is unlikely to be effective (NRC, 1994).” Actually, what the National Research Council (NRC) said in “Curbing Gridlock: Peak-Period Fees to

Relieve Traffic Congestion,” is the following: “With travel demand far out pacing the provision of highway capacity, there is little prospect that congestion will be eased *simply* by building new highways or *transit systems*” (emphases added). The “consensus” of transportation economists reflected in the NRC report is not against building road capacity but in favor of market pricing. The report sensibly points out that many businesses -- telephone companies, restaurants, resort hotels, airlines -- would experience “congestion” if the price of their services could not vary with demand. However, this is not an argument against laying new telephone cable, opening new restaurants, building new hotels, or creating new airline routes to meet growing demand. Rather, it is an argument for integrating roads into the market economy. What is EPA’s view of variable road pricing as a means of (a) reducing highway congestion and (b) funding road construction, maintenance, and repair?

- Q10. In my August 10th letter, I asked EPA to verify its claim that “vehicle-caused pollution doubles periodically in most metropolitan areas.” Specifically, I asked EPA to list those metropolitan areas where vehicle-caused pollution has doubled and the time in which it has doubled. I also asked EPA to estimate changes in vehicle-caused pollution in the ten largest metropolitan areas. Instead, EPA estimated the growth in VMT for the ten largest metropolitan areas. In short, EPA answered a question I did not ask, and did not answer the question I did ask. Interestingly, in none of the cities listed has VMT even doubled.

EPA also purports to answer my factual question with a hypothetical argument: “*Holding average fleet fuel efficiency constant*, continuing growth in the amount of VMT in metropolitan areas *can* result in a doubling of carbon dioxide emissions -- a principal greenhouse gas -- during the same time period that the amount of VMT doubles. In addition, *to the extent that the amount of other pollutants is directly proportional to VMT*, pollution associated with automobile use *can* double during the same period” (emphases added). Granted, in the absence of any improvement in fuel efficiency or average vehicle emissions per VMT, emissions will rise proportionately with VMT. That is a tautology. But, in the real world of the American automobile, emissions are declining as newer, cleaner-burning vehicles replace older, more-polluting vehicles. The clear history of vehicle emissions is of decline, not the regular “doubling” claimed by EPA’s TEA-21 Workgroup Report. Therefore, does EPA stand by, or does it retract, its statement that “vehicle-caused pollution doubles periodically in most metropolitan areas”?